



## Peru

### Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor  
March 11, 2008

Peru is a multiparty republic with a population estimated at 28.7 million. In June 2006 Alan Garcia of the Popular Revolutionary Party Alliance (APRA) won the presidency in elections that were generally free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The following human rights problems were reported: abuse of detainees and inmates by police and prison security forces; harsh prison conditions, lengthy pretrial detention and inordinate delays of trials; attacks on the media by local authorities; governmental corruption; violence and discrimination against women; violence against children, including sexual abuse; trafficking in persons; discrimination against indigenous people and minorities; failure to apply or enforce labor laws; and child labor in the informal sector.

The terrorist organization Shining Path (Sendero Luminoso) linked to narcotics trafficking was responsible for killings and other human rights abuses.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

###### a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

On March 17, assailants in Jaen, Cajamarca, shot and killed journalist Miguel Perez Julca. Judicial proceedings were pending against three persons arrested in connection with the killing. The Inter American Press Association noted reports of irregularities in the police investigation and the possible participation of national police officers in the killing.

On September 9, the Public Ministry began investigating 10 police officers involved in the death of one inmate and the beating of another at Jesus Maria police station, after a fire forced the removal of prisoners from the building.

On October 2, inmates from warring factions took control of the Miguel Castro Castro Prison in Lima. During a four-hour gun battle, inmates took three guards hostage; the guards were eventually rescued, but one inmate was killed.

There were no new developments at year's end in the 2006 cases of Luis Alberto Saravia (killed by police officers) and Peter Vasquez Chavez (killed by military officers).

On July 18, the National Penal Court sentenced Flovio Roberto Vasquez Burga and Walter Ochoa Magallanes to eight years' and four years' imprisonment, respectively, for their role in the death of Ricardo Huaranga Felix, who died in police custody in 2004.

On January 7, the Second Public Prosecutor's Office charged four military officers with torture in the 2004 death of army Corporal Edgar Ledesma Lopez. Oral proceedings began October 29 in the National Penal Court of Lima and continued at year's end.

Homicide charges against two military officers in the 2004 case of Peter Vasquez Chavez, a recruit found dead at the Cangari-Huanta Military Base in Ayacucho, were dropped when the victim's parents accepted monetary compensation from the army.

In September 2006 Superior Public Prosecutor Martin Retamozo requested 20 years of jail for former Intelligence Service Director Vladimiro Montesinos and reduced sentences for former armed services chief general Nicolas Hermoza, colonel

Roberto Huaman, and colonel Jesus Zamudio Montesinos on charges of extrajudicial killings in the 1997 rescue of 74 hostages at the Japanese ambassador's residence. Oral proceedings began on May 18 and continued at year's end.

On March 16, the Inter-American Commission on Human Rights ruled that the "La Cantuta" case be presented to the anticorruption court and asked that army officers be retried.

On September 22, Chile extradited former president Alberto Fujimori to face an array of charges relating to corruption and human rights violations during his presidency. The most serious charges concerned Fujimori's involvement in the 1991 Barrios Altos and 1992 La Cantuta killings. On December 11, a court convicted Fujimori and sentenced him to six years in prison for ordering an illegal search. At year's end Fujimori was in jail and being tried on charges that carried prison terms up to 10 years for corruption and 30 years for human rights violations.

In August 2006 the Second Supranational Court began investigating charges that Fujimori ordered the killing of 41 members of Shining Path in May 1992 at the Miguel Castro Castro Penitentiary. These charges were not included as part of the extradition, and the investigation continued at year's end.

In August 2006 authorities charged opposition leader Ollanta Humala with participating in disappearances, torture, and murder at the Madre Mia military base in 1992 and forbade him to leave the country. The Court's investigation continued at year's end.

The First Supraprovincial Court continued investigating responsibility for the 1986 El Fronton prison massacre. In May Superior public prosecutor Edgar Chirinos ordered provincial public prosecutor Mario Gonzales to reopen the investigation against Alan Garcia, who was president at the time, and all members of his 1986 cabinet for their alleged responsibility in the killing.

In April former army officers Telmo Ricardo Hurtado Hurtado and Juan Manuel Rivera-Rondon, who were implicated in the 1985 massacre of 69 villagers during a military raid in the village of Accomarca, were arrested and detained in a foreign country pending the outcome of extradition proceedings.

On April 26, oral proceedings began in the National Criminal Court in the 1980 case of eight peasants in Chuschi, whom soldiers reportedly tortured and killed. In September the National Terrorism Court sentenced Lieutenant Collins Collantes to 14 years in prison and police officer Luis Juarez to six years. Both were fined civil reparations of \$161,000 (480,000 soles).

At year's end the Public Ministry continued investigating the mass grave discovered in northern Cusco in June 2006. The grave contained the remains of 80 bodies; 10 of 25 bodies exhumed were identified.

In July 2006 a superior prosecutor, Luz Ibanez Carranza, announced an intention to investigate 516 cases of human rights violations that the government allegedly committed during the preceding 20 years. There were no known developments in the investigation.

Narcotics traffickers and Shining Path terrorists killed several police officers during the year. On January 11, they attacked a police vehicle in Churcacampa, Huancavelica, killing one officer and injuring another, and on November 1, they killed one police officer and injured three others in an assault on a police station in Ocobamba, Apurimac. On December 27, alleged Shining Path terrorists killed two police officers in Ayacucho.

Societal violence outside Lima remained a serious problem, often as a result of a lack of police presence.

#### b. Disappearance

There were no reports of politically motivated disappearances.

The Public Defender's Office continued its investigations into approximately 1,000 disappearance cases from 1980 to 2000, some of which were considered politically motivated.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the law prohibits such practices, there were reports that security officials used excessive force. Unlike in the previous year, there were no credible allegations of torture. The authorities seldom punished those who committed abuses.

Allegations of abuse most often arose immediately following an arrest, when families were prohibited from visiting suspects and when attorneys had limited access to detainees.

In some cases, police and security forces allegedly threatened or harassed victims, their relatives, and witnesses to prevent them from filing charges of human rights violations. According to Human Rights Commission (COMISEDH), a nongovernmental organization (NGO), some victims were reluctant to pursue judicial proceedings for fear that abusers would be released without being charged. COMISEDH reported 10 cases of aggravated torture by security forces. No victims died from their injuries. The Peruvian National Police (PNP) were involved in five cases, while municipal security units, penitentiary guards, and military units were involved in the other five cases. In December the Ombudsman's Office reported that, between August 2006 and September 2007, it registered 139 cases of presumed torture and cruel or degrading treatment committed by the PNP and the armed forces; 106 of the abuses were ascribed to the PNP and 33 to the armed forces.

The Fifth Penal Prosecutor of Lima continued its investigation into the case of Cristhian Rolangelo Contreras Atco who charged that three policemen had beaten him unconscious in April 2006. The Public Prosecutor's Office closed its investigation characterizing the case as a common crime, not human rights related.

The 2005 case of the alleged police beating of Wilmer Cubas Carranza continued in the Supraprovincial Court of Lima at year's end.

The Public Defender's Office investigation into the May 2006 riot at La Asuncion Prison in Junin continued at year's end. Guards were accused of beating prisoners after the riot.

The Fifth Prosecutor's Office of Callao continued its investigation of the alleged beating in July 2006 of inmate Samuel David Flores Valdivia by Sarita Colonia Prison director Manuel Vazquez.

The Supreme Court upheld the National Penal Court decision absolving a policeman in the 2002 beating of Jair Martin Rodriguez and his brother.

#### Prison and Detention Center Conditions

Prison conditions were harsh. Prisoners with money had access to cell phones, illicit drugs, and meals prepared outside the prison. But conditions were poor to extremely harsh in all facilities for prisoners lacking funds. Overcrowding, poor sanitation, and inadequate nutrition and health care were serious problems. Inmates had intermittent access to running water; bathing facilities were inadequate; kitchen facilities were unhygienic; and prisoners slept in hallways and common areas for lack of cell space. Illegal drugs were available in many prisons, and tuberculosis and HIV/AIDS were reportedly at near epidemic levels. Prison authorities budgeted approximately \$1.00 (3.00 soles) per prisoner per day for food. In Lima's San Juan de Lurigancho men's prison (the country's largest), more than 9,000 prisoners lived in a facility built for 1,500. According to the National Penitentiary Institute (INPE), only 4 percent of prison facilities were considered in good condition. INPE, with support from the Red Cross and the NGO Doctors Without Borders, provided diagnostic equipment and updated technology to improve health care services provided to inmates.

INPE runs 55 of the country's 84 prisons; the PNP controls the rest. INPE hired 200 additional prison guards and reactivated 200 others but did not construct the six additional prisons authorized by Congress in 2006.

The International Committee of the Red Cross (ICRC) reported a shortage of trained medical personnel, inadequate legal representation for prisoners, a lack of social workers and psychologists, and a disorganized system of administration.

Conditions were especially harsh in maximum-security facilities located at high altitudes. The high-security prison in Iquitos was in poor condition, with the physical infrastructure of the building near collapse. The prison facility in Maynas was in such disrepair that rubble prevented guards from reaching some watchtowers.

Prison guards and fellow inmates routinely abused prisoners. There were deaths of inmates in prisons, most attributed to fellow inmates but some due to negligence by guards. Guards received little or no training or supervision. Corruption was a serious problem, and some guards cooperated with criminal bosses, who oversaw the smuggling of guns and drugs into prison facilities.

There were approximately 40,000 prisoners of whom 13,000 had been sentenced. Detainees were held temporarily in pretrial detention centers located at police stations, judiciary buildings, and the Ministry of Justice. In most cases, pretrial detainees were held with convicted prisoners.

The Anti-Corruption Court completed its investigation of Jose Gamboa Mendoza, director of the Piedras Gordas Penitentiary, who was tape recorded negotiating bribes in June 2006. Gamboa was in prison awaiting trial at year's end.

On January 28, a riot in Miguel Castro Castro Prison left one person dead and five wounded. Detention of various leaders among the inmates reportedly provoked the riot.

On January 31, INPE's prison system chief, Rosa Mavila, resigned to protest unsafe prison conditions after three inmates died in one week.

On March 6, after 31 days in office, Benedicto Jimenez resigned as head of the INPE following publication of e-mails he allegedly sent to convicted drug trafficker Fernando Zevallos.

In September INPE reported that 38 of the country's 84 jail facilities had poor conditions, overcrowding, and an overall lack of infrastructure, as well as corruption. In recent years INPE investigated and sanctioned 31 administrative agents for allowing inmates to escape; smuggling drugs, alcohol, and cell phones to inmates; and granting privileges to gang leaders.

Anticorruption Judge Rafael Vela Barba ordered Cesar Orozco Barrios, director of Piedras Gordas Penitentiary, along with three other civil employees, to remain in the country while charges against them of accepting money from inmates were investigated.

The government permitted prison visits by independent human rights observers, including the ICRC. The ICRC made 32 unannounced visits to inmates in 18 different prisons and detention centers.

#### d. Arbitrary Arrest or Detention

The constitution, criminal code, and antiterrorist statutes prohibit arbitrary arrest and detention, although the law permits police to detain persons for investigative purposes. The law requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. Only judges may authorize detentions, including in corruption cases. Authorities are required to arraign arrested persons within 24 hours, except in cases of terrorism, drug trafficking, or espionage, in which arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours; in remote areas, arraignment must take place as soon as practicable.

#### Role of the Police and Security Apparatus

The PNP, with a force of approximately 92,000, was responsible for all areas of law enforcement and internal security and functioned under the authority of the minister of the interior. The PNP's personnel structure follows that of the military, with an officer corps and enlisted personnel. The organizational structure is a mixture of directorates that specialize in specific areas (such as kidnapping, counternarcotics, and terrorism) and local police units. Each department, province, city, and town has a PNP presence.

The armed forces, with approximately 100,000 personnel, is responsible, under the authority of the Defense Ministry, for external security, but it also has limited domestic security responsibilities.

Observers noted that the PNP was undermanned and suffered from a lack of training, professionalism. Corruption and impunity remained problems. There were also several reports of military corruption, impunity, and resistance to provide information on its personnel under investigation for human rights abuses committed during the country's armed conflict.

The PNP is charged with witness protection but lacked resources to provide training for officers, conceal identities, or offer logistical support to witnesses. Officers assigned to witness protection cases often brought witnesses into their homes to live. COMISEDH was processing some cases of serious threats against witnesses, lawyers, and human rights activists.

#### Arrest and Detention

The law requires police to file a report with the Public Ministry within 24 hours after an arrest. The Public Ministry, in turn, must issue its own assessment of the legality of the police action in the arrest. The law also provides for the right to prompt judicial action. The time between an arrest and an appearance before a judge averaged 20 hours. Judges have 24 hours to decide whether to release a suspect or continue detention. A functioning bail system exists, but many poor defendants lacked the means to post bail. By law, detainees are allowed access to a lawyer and to family members. The Justice Ministry provided indigent persons with access to an attorney at no cost. Persons detained for espionage, drug trafficking, corruption, and terrorism may be held for up to 30 days. Police may detain suspected terrorists incommunicado for 10 days. The public ministry oversees the detention centers, which are also monitored by the ombudsman's office.

Lengthy pretrial detention was a problem. According to a study prepared by the Technical Secretary of the Special Commission for Integral Reform of the Justice System, only 32 percent of the persons in prison had been sentenced, with 68 percent awaiting trial, the majority for between one to two years. If prisoners are held more than 18 months without being sentenced--36 months in complex cases--under law they must be released.

#### e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected this provision in practice. Nonetheless, significant problems affected this branch, which was a frequent target of reform efforts.

The three-tier court structure consists of lower courts, superior courts, and a Supreme Court of Justice of 30 judges. Supranational courts execute judgments made by courts, such as the Inter-American Court of Human Rights, outside the domestic judicial system. A seven-person constitutional tribunal operates independently of the judicial branch. The independent and autonomous National Judicial Council (CNM) appoints, disciplines, and evaluates all judges and prosecutors who have served in their position for at least seven years (excluding those chosen by popular election). Lack of certification from the CNM permanently disqualifies a judge or prosecutor.

#### Trial Procedures

The justice system is based on the Napoleonic Code. The prosecutor investigates cases and submits an opinion to a first instance judge, who determines if sufficient evidence exists to open legal proceedings. The judge conducts an investigation, evaluates facts, determines guilt or innocence, and issues a sentence. All defendants are presumed innocent; they have the right to be present at trial, to call witnesses, and to be represented by counsel, although in practice the public defender system often failed to provide indigent defendants with qualified attorneys. Although citizens have the right to be judged in their own language, language services for non Spanish-speakers were sometimes unavailable. Defendants may appeal verdicts to the superior court and then to the Supreme Court of Justice. The Constitutional Court decides cases involving such issues as habeas corpus. The Ombudsman cited cases of 188 inmates who had been waiting more than 10 years to be sentenced.

Under the military justice system, judges in the lower courts must pass judgment and sentence within 10 days of the opening of trial. Defendants can appeal convictions to the Superior Military Council, which has 10 days to issue a decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue a ruling within five days. At the Superior Military Council and Supreme Council levels, a significant number of judges were active-duty officers with little or no professional legal training.

The Special Terrorism Court, in accordance with decisions of both the Inter-American Court of Human Rights and the Constitutional Tribunal, continued to retry defendants previously convicted by military tribunals. The National Penal Court found 791 persons guilty and absolved 257 persons. Approximately 20 cases remained pending, and 1,000 persons remained imprisoned for acts of terrorism.

The National Penal Court continued investigations into cases involving allegations of human rights abuses by security forces during the war against Shining Path in the 1980s and 1990s. The court still had some cases referred by the Truth and Reconciliation Commission, but only a few involved active investigations.

The NGO Institute for Legal Defense continued efforts to reduce the large case backlog involving those officially sought for acts of terrorism.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

The country has an independent judiciary that enables citizens to bring lawsuits for violations of their rights; however, court cases often dragged on for years, making it difficult for some plaintiffs, particularly those of limited economic means, to pursue legal redress. In addition, press reports, NGO sources, and others alleged that judges were frequently subject to corruption or influence by powerful outside actors.

#### f. Arbitrary Interference with Privacy, Family, Home or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions, although reports surfaced that authorities did not always obtain warrants before entering private dwellings.

Unlike the preceding year, there were no reports that Shining Path engaged in forcible recruitment of indigenous persons.

#### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. There was, however, widespread harassment of the press by provincial authorities, the police, and private groups such as coca growers (cocaleros). Harassment took the form of attacks on journalists, illegal arrests, and threats.

The independent media were active and expressed a variety of views. All media outlets were privately owned except for one government-owned daily newspaper, two television networks, and one radio station.

Journalists and media outlets suffered intimidation. Through September the National Journalists Association reported 160 cases of harassment and the Press and Society Institute issued 90 alerts; both numbers were higher than for the comparable period in 2006. Most incidents took the form of violent attacks, threats, judicial pressure, illegal arrests, and theft of broadcasting equipment and journalists' files. Many cases were attributable to a lack of an effective government presence in some parts of the country. Government authorities reportedly harassed reporters in approximately 40 incidents.

On January 20, Jose Luis Zafra and Mazzi Soto, officials of Lima's municipality of Chosica, allegedly threatened and beat Elizabeth Salinas, a reporter with the radio program *Satelite Noticias*, and Cinthia Florez, a photographer with *Cono Este* magazine, for investigating the administration of Mayor Luis Bueno. On January 22, the offenders filed a complaint against the reporters; the legal process continued at year's end.

On March 22, unknown persons threw a tear gas canister at the home of reporter Hermes Rivera, after he commented on the killing of reporter Miguel Perez Julca.

On April 11, Chimbote reporter Sandor Revilla, director of the news program *Punto 31*, received death threats after broadcasting a video showing policemen shooting protesters during the Ancash regional strike.

On May 15, Nueva Cajamarca's *California* radio station reporter Danilo Bautista received death threats after uncovering irregularities in a water supply contract signed by the municipality of Nueva Cajamarca.

On May 22, Antero Duenas, the mayor of Cajaruro, Amazonas, beat Luis Cumpa, correspondent of a local television channel, for covering the mayor's trial on corruption charges.

On June 13, Alberto Nunez, a reporter with *Lider* radio station and HTV Channel 4 in Arequipa, charged that eight policemen hit him for reporting corrupt acts by PNP General Bernabe Garavito.

On September 4, Edward Vizcarra, the mayor of Wari, Ancash, burned many copies of the local daily *La Primera* because the newspaper had criticized Vizcarra for corruption.

On September 14, INPE personnel, who worked at Chimbote's jail, shot pellets at six reporters covering a hunger strike.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups engaged in the free expression of views via the Internet, including by e-mail. The chief impediment to Internet access was a lack of infrastructure.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom.

On June 21, Piero Quijano withdrew his painting show "Drawings in Press 1900-2007" from Mariategui Museum, because National Institute of Culture officers objected to some of his works after the Ministry of Defense had earlier sent a letter protesting a poster based on a previously published cartoon. Museum director Armando Williams resigned in protest.

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

The constitution provides for the right of freedom of assembly, and the government generally respected this right in practice. The law does not require a permit for public demonstrations, but organizers must inform the Interior Ministry's political authority (prefect) about the type of demonstration and its location. Demonstrations may be prohibited for reasons

of public safety or health. The police used tear gas and occasional force to disperse protesters in various demonstrations. Although most demonstrations were peaceful, protests in some areas turned violent.

#### Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice.

#### c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

The constitution establishes separation of church and state, but laws favoring the Roman Catholic Church remain in force. The Catholic Church and clergy received preferential treatment in education, tax benefits, and other areas. By law the military may hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion for military personnel. The education ministry requires that Catholic religion courses be taught in all public and private primary and secondary schools; however, many non-Catholic private schools were granted exemptions. Additionally, parents may request an exemption by writing to the school principal.

Churches may register voluntarily with the Office of Interconfessional Affairs in the Ministry of Justice to receive tax benefits and exemption from import duties on religious materials.

#### Societal Abuses and Discrimination

There were no reports of societal abuses, discrimination, or anti-Semitic acts.

There were approximately 4,000 members of the Jewish community.

For a more detailed discussion, see the *2007 International Religious Freedom Report*.

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for the right of free movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Authorities may restrict persons with pending criminal cases or civil charges from leaving the country, and police have the right to check documents at control points throughout the country.

Narcotics traffickers and Shining Path at times interrupted the free movement of persons by establishing roadblocks in sections of the Upper Huallaga, Apurimac, and Ene River valleys. Farmers occasionally blocked roads in an attempt to pressure the government to purchase surplus crops.

The law prohibits forced internal and external exile, and the government did not use it.

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government also provided protection against refoulement, the return of persons to a country where there is reason to believe they feared prosecution, and laws allow individuals to apply for refugee status or asylum.

The government cooperated with the Office of the UN High Commissioner for Refugees and recognized the Catholic Migration Commission (CMC) as the official provider of technical assistance to refugees. The CMC also advised citizens who feared persecution and sought asylum abroad. The government provided protection to refugees on a renewable, year-to-year basis, in accordance with CMC recommendations. The CMC granted refugee status to 93 persons.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides for the right of citizens to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of mandatory voting and universal suffrage.

## Elections and Political Participation

In July 2006 Alan Garcia Perez assumed the presidency after two rounds of presidential elections that were considered free and fair. In the June 2006 elections, the president's APRA party won 36 seats (second to the Union for Peru Party's 45 seats) in the 120-seat unicameral Congress.

Nationwide municipal elections were held in November 2006; domestic and international observer delegations declared the elections to be fair and transparent, despite a few localized incidents of violence.

Registration of a new political party requires the signature of 1 percent of the voters who participated in the past election. Presidential and congressional terms are five years, and the law prohibits the immediate reelection of a president. Groups that advocate the violent overthrow of government are barred from participating in the political process.

There were 34 women in the 120-member Congress, including the president and a vice-president. There were seven women in the cabinet and one woman on the Supreme Court. The Law on Political Parties mandates that at least 30 percent of candidates on the party lists be women. While parties abided by the legislation, many women candidates were included at the bottom of the party lists, reducing their likelihood of winning seats on regional and municipal councils.

Indigenous persons comprise approximately 33 percent of the population. There were 23 Quechua, one Aymara, and one Chipivo speakers in Congress. There was also one member of the Afro-Peruvian minority (estimated at 3 to 5 percent of the population) in Congress.

## Government Corruption and Transparency

The law criminalizes official corruption; however, the government did not implement the law effectively. The World Bank's worldwide governance indicators reflect that government corruption was a serious problem. There was a widespread public perception that corruption was pervasive in all branches of government.

A nationwide poll conducted during the year found that 30 percent of respondents claimed to have been victims of corruption. In another national poll conducted in August, 58 percent of respondents expressed mistrust of the National Police, while a similar study performed by Pontificia Universidad Catolica del Peru showed that 77 percent of respondents doubted the honesty of PNP agents.

Extradited former president Alberto Fujimori faced an array of charges including corruption. Human rights activists and civil society actors noted that the law permits 36 months of detention without sentencing, opening the possibility that some of those accused could be freed unless their cases were handled promptly.

On February 9, the Office of Control of Magistrates suspended and sanctioned Lima Superior Court President Angel Romero for "illegal" acts he committed as judge, notably for awarding a controversial multimillion dollar indemnity to a group of former Central Bank employees.

Public officials are subject to financial disclosure laws; government agencies responsible for combating government corruption are the General Comptroller's Office and the Office of Anti-Corruption created in November.

The law provides for public access to government information, and most ministries and central offices provided key information on web pages. Implementation of the law was incomplete, particularly in rural areas, where few citizens exercised or understood their right to information. The ombudsman's office encouraged regional governments to adopt more transparent practices for releasing information and monitored the compliance of regional governments with a law that requires public hearings at least twice a year.

In an effort to make the judicial system more transparent, 65 judges began publishing their cases on the Internet through a program developed by the Andean Commission of Jurists.

## Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A large number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. There was considerable controversy surrounding a law, signed by President Garcia in December 2006, which required all NGOs to register with the government and to provide an annual financial statement listing sources of income and how funds were spent. The law also contained loosely worded provisions that could require NGOs to align their



development programs with those of the government and gave the government wide discretion in imposing sanctions. On September 9, the Constitutional Tribunal ruled that articles one and nine, which established tighter controls over private funding of NGOs and stiffened penalties for NGOs violating regulations, were unconstitutional.

According to COMISEDH, military commanders continued to deny human rights observers access to military facilities. To obtain information about activities in those areas, NGOs had to work through the ombudsman's office.

The National Council for Reparations, created in 2006 to assist persons who had suffered during the conflict with Shining Path between 1980 and 2000, compiled a Unique Registry of Victims of the conflict, both individuals and communities. The registry included 440 communities eligible to receive future reparations benefits.

A Human Rights Ombudsman's Office exists and operated without government or party interference and was considered to be effective.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, but enforcement lagged, and discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persisted.

##### Women

Violence against women and girls, including rape, spousal abuse, and sexual, physical, and mental abuse was a problem. Abuses were aggravated by insensitivity on the part of law enforcement and judicial authorities toward female victims.

The law criminalizes rape, including spousal rape, but enforcement was not effective. There were approximately 10 reports of rape daily; however, there were no reports on the numbers of abusers prosecuted, convicted, or punished.

The law prohibits domestic violence, and penalties range from one month to six years in prison. The law authorizes judges and prosecutors to prevent the convicted spouse or parent from returning to the family's home and authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence. It also allows health professionals to document injuries. The law requires police investigation of domestic violence to take place within five days and obliges authorities to extend protection to women and children who are victims of domestic violence.

The Ministry of Women and Social Development (MIMDES) created 14 new assistance centers, for a total of 62. The centers reported 30,788 cases of domestic violence and helped an average of 3,000 men and women per month. MIMDES also operated a toll-free hot line, which handled 9,768 requests for assistance regarding family disturbances.

Many domestic abuse cases went unreported, and NGO sources stated that the majority of reported cases did not result in formal charges because of fear of retaliation or the expense of filing a complaint. The protections offered were limited because of legal delays, ambiguities in the law, and the lack of shelters for victims. MIMDES ran the Women's Emergency Program, which sought to address the legal, psychological, and medical problems facing victims of domestic violence. MIMDES operated centers that brought together police, prosecutors, counselors, and public welfare agents to help victims of domestic abuse.

MIMDES continued efforts to sensitize government employees and the citizenry to domestic violence, but the ombudsman's office continued to complain that police officers reacted indifferently to charges of domestic violence, despite legal requirements to investigate the complaints.

Prostitution is legal for women over 18 years of age if they register with municipal authorities and carry a health certificate. In practice the vast majority of prostitutes worked in the informal sector where they lacked health protection. NGOs reported that traffickers lured increasing numbers of underage women into prostitution. The law, which was not effectively enforced, provides penalties for those who derive financial benefits from trafficking in persons, Internet child pornography, and sexual tourism involving children. Penalties for pimps and clients of underage prostitutes range from four to eight years in prison. There was no information on the number of cases reported, prosecuted, or convicted.

Sexual harassment was a problem. The law defines sexual harassment as a labor rights violation subject to administrative punishment. Punishments differ depending on the professional situation where the violation took place.

The law provides for equality between men and women and prohibits discrimination against women with regard to marriage, divorce, and property rights, and women from the upper and upper-middle classes assumed leadership roles in companies and government agencies. Racial and sexual discrimination in employment or educational advertisements was prohibited, although in practice discrimination continued. The law prohibits the arbitrary dismissal of pregnant women.

The law stipulates that women should receive equal pay for equal work. But societal prejudice and discrimination led to disproportionate poverty and unemployment rates for women. Women on average were paid 46 percent less than men, usually worked in less secure occupations as maids, in factories, or as street vendors, and were more likely to be illiterate through a lack of formal education.

## Children

The government was committed to the welfare and rights of children.

Education was free and compulsory through secondary school and generally was available throughout the country, although a shortage existed of qualified teachers, primarily in the jungle regions. The Ministry of Education provides books to all public schools. Children living in poverty averaged 7.8 years of education, compared with 9.4 years for those living above the poverty line. National Institute for Statistical Information data in 2005 reported school attendance rates of 55 percent for children three to five years old, 92 percent for those six to 11 years old, and 69 percent for those between ages 12 and 16. The Ministry of Education operated night schools for working adolescents and offered a tutorial program where teachers provided extra help to working students.

The government's health security program continued to offer poor mothers and infants, as well as school-age children, access to basic health care. The program includes children not attending school. Boys and girls had equal access to health services under this system.

Violence against children and the sexual abuse of children were serious problems. MIMDES reported 923 cases of violence or sexual abuse of children five years of age and under and 2,309 cases of children ages six to 11.

Many abuse cases went unreported because societal norms viewed such abuse as a family problem that should be resolved privately. The Women's Emergency Program worked to help children who were victims of violence.

MIMDES' Children's Bureau coordinated government policies and programs for children and adolescents. At the grassroots level, 1,312 children's rights and welfare protection offices resolved complaints ranging from physical and sexual abuse of children to abandonment and failure to pay child support. Provincial or district governments operated approximately 46 percent of these offices, while schools, churches, and NGOs ran the others. Law students staffed most of the units, particularly in rural districts. When these offices could not resolve disputes, officials usually referred cases to the local prosecutors' offices of the Public Ministry whose adjudications were legally binding and had the same force as judgments entered by a court of law.

Trafficking of children and child labor were problems.

## Trafficking in Persons

The law prohibits trafficking in persons; however, there were reports that persons were trafficked from and primarily within the country.

No authoritative estimates existed on the extent of trafficking, but evidence indicated that persons were trafficked to Spain and particularly to Japan through organized criminal networks. NGOs and international organizations reported that significant domestic trafficking occurred, particularly in districts located in the highlands or in the Amazon jungle, to bring underage girls into cities to work as prostitutes or domestics. According to the International Labor Organization (ILO), there were nine zones in Iquitos and 40 nightclubs in Cajamarca that permitted illegal sexual exploitation of children.

Traffickers' methods often combined emotional manipulation and coercion. Victims were recruited through newspaper ads or street posters offering employment. In February an ILO study reported that 69 percent of minors trafficked for commercial sexual exploitation were recruited by friends or by people who befriended them on the street. Local employment agencies also played a role in recruiting trafficking victims, for instance, by offering poor young women from rural areas relatively well paid "restaurant work" in cities like Lima and Cusco and, in some cases, abroad. Traffickers usually transported their victims by road, while a smaller percentage traveled by air or river transport. The families of the victims wittingly or unwittingly facilitated the trafficking by trusting a "friend" or a distant relative who promised a job.

The law provides penalties from five to 12 years' imprisonment for those who move a person, either within the country or to an area outside the country, for the purposes of sexual exploitation (including prostitution, sexual slavery, or pornography). If the victim is less than 18 years old, the punishment is 10 to 15 years' imprisonment. Laws prohibiting kidnapping, sexual abuse, and illegal employment of minors also were enforced and used to punish those who trafficked persons.

On January 12, Congress enacted a comprehensive law that more clearly defines trafficking in persons, strengthens penalties, and provides protection for trafficking victims and witnesses. The law's implementing regulations were awaiting ministerial approval at year's end.

The PNP repeatedly raided clandestine brothels and rescued a number of young women who were returned to their families. However, the raids resulted in few arrests for trafficking crimes. Most persons were charged for pimping and related crimes. The PNP unit that investigates trafficking-related crimes reported 64 cases. The police station of Juliaca in Puno investigated and registered 10 cases between January and August.

In August authorities arrested Leydi Elisa Machaca Coaquira and Norm Gomez Gomez for trafficking in persons for kidnapping and forcing a girl to work for three years in **Puno**.

In December 2006 a court sentenced Edwin Alberto Sanchez Aguilar to 10 years' imprisonment for trafficking in persons with aims of sexual exploitation; the court also sentenced him to pay \$1,667 (5,000 soles) to each of three female victims.

In July 2006 the PNP arrested Carlos Arturo Yong Chong and 20 others for trafficking infants to France. In November prosecutor Patricia Benavides Vargas requested the maximum sentence of 12 years in prison for Carlos Arturo Yong Chong; the case remained pending at year's end.

The government coordinated its protection and assistance to victims with NGOs. A Catholic order, the Sisters of Adoration, operated three programs for underage female prostitutes: a live-in center for approximately 75 girls (and 20 children of the victims) in Callao and two drop-in centers--one each in Lima and Chiclayo. All facilities offered medical attention, job training, and self-esteem workshops designed to keep underage girls from the streets. The government provided the building in Callao and paid for upkeep, utilities, and food.

The Ministry of Interior's Office of Human Rights maintained a toll-free trafficking hot line, which received an average of 1,000 calls per month, approximately one-sixth of them trafficking related. The hot line staff received support from the International Organization for Migration, which assisted in informational campaigns and training government officials in trafficking issues. The Ministry of Foreign Affairs produced and distributed antitrafficking materials to domestic passport offices and overseas consular posts.

#### Persons with Disabilities

The law prohibits discrimination against persons with disabilities and provides for "protection, care, rehabilitation, and security." The law also mandates that public spaces be free of barriers and accessible to the disabled. The law provides for the appointment of a disability rights specialist in the ombudsman's office; the government, however, devoted limited resources to enforcement and training, and many persons with physical disabilities remained economically and socially marginalized.

The government made little effort to ensure access to public buildings. There were no interpreters for the deaf in government offices and no access to recordings or to Braille for the blind.

According to officials of the Institute for Social Security, less than 1 percent of persons with severe physical disabilities were employed. Some private companies operated programs to hire and train persons with physical disabilities, and a private foundation provided small loans to persons with physical disabilities to start businesses. Nevertheless, discrimination remained a problem.

Persons with mental disabilities faced significant challenges as well. The law deems the state responsible for safeguarding and attending to persons with mental health problems in situations of social abandonment, but this is not enforced.

According to the NGOs Mental Disability Rights International and Asociacion Pro Derechos Humanos, there were serious shortcomings in protecting the rights of persons with mental illnesses, including inhuman treatment of institutionalized patients, discrimination in the provision of health and social services, failure to ensure informed consent, and violation of the right to community integration. The 443 medical personnel in psychiatric institutions were insufficient; as a result, in some cases, patients cared for each other. An Ombudsman's report found that 343 patients were left completely abandoned in these hospitals.

#### National/Racial/Ethnic Minorities

The law provides all citizens equality before the law and forbids discrimination on the basis of race, national origin, or language.

The population includes large minorities of persons of Asian and African descent. Afro-Peruvians faced discrimination and social prejudice and were among the poorest groups in the country. Afro-Peruvians generally did not hold leadership positions in government, business, or the military, although one Afro-Peruvian woman was elected to Congress. Few Afro-Peruvians served as officers in either the navy or the air force. Although the law prohibits mentioning race in job advertisements, NGOs alleged that employers often found ways to refuse Afro-Peruvians jobs or relegate them to low-paying service positions. Employers, for example, often required applicants to submit photos. Afro-Peruvians often were

portrayed in the media as stereotypes.

### Indigenous People

The law prohibits discrimination based on race and provides for the right of all citizens to speak their native language. Spanish and Quechua are the official languages; the government also recognizes 49 other indigenous languages.

Most indigenous persons and those with indigenous features faced pervasive societal discrimination and prejudice. Several factors impeded their ability to participate fully in the political process, including language barriers and inadequate infrastructure in indigenous communities; however, Alejandro Toledo of indigenous descent served as president from 2001 to 2006. Many indigenous persons lacked identity documents and could not exercise basic rights.

The geographic isolation of highland and Amazon jungle communities also disadvantaged indigenous persons. The UN Children's Fund reported that indigenous persons in rural areas often did not have access to public services, particularly health care and education. Ninety percent lived in poverty, and only 39 percent had completed primary school. Child mortality rates were higher in indigenous areas, and only 20 percent of births took place in public health centers.

People with indigenous features were often derogatorily referred to as "cholos" and were subjected to illegal discrimination in restaurants and clubs. The government, however, began stronger enforcement of antidiscrimination laws. For instance, on June 12, authorities fined a bar in the affluent Miraflores district \$21,700 (69,000 soles) for discrimination and on July 7, closed one of the most prominent restaurants in Miraflores for 30 days and fined it for discriminatory practices.

The indigenous population of the Amazon region, estimated at 200,000 to 300,000 persons, faced discrimination. Local culture and tradition rejected the idea of land as a marketable commodity. Although local communities retain the legal right of "unassignability," which prevents the title of indigenous lands from being reassigned to nonindigenous tenants, in practice the marketing and sale of the lands took place. Indigenous groups continued to resist encroachment on their native lands but often lacked legal title to the land. Mineral or other subsoil rights belong to the state, a situation that often caused conflict between mining interests and indigenous communities.

The constitution provides that all citizens "have the right to use their own language before any authority by means of an interpreter."

In Congress native speakers of Quechua conducted some debate in Quechua (translators were available for non-Quechua speakers). The National Program of Mobilization for Literacy taught basic literacy and mathematics to more than 10,000 poor men and women in the mountainous and jungle regions of Junin.

### Other Societal Abuses and Discrimination

While homosexuals and persons with HIV/AIDS faced extensive discrimination, there were efforts to combat it. The Ministry of Health created public policies to combat discrimination based on sexual orientation, including a four-year (2007-11) strategic plan for the prevention and control of HIV and AIDS. In 2006 the Ministry of the Interior adopted the Handbook of Human Rights Applied to the Civil Police, which stipulates that the police must respect human rights, especially of the most vulnerable groups; it refers explicitly to lesbians, gays, and transvestites. On July 7, hundreds of persons, including public officials, union leaders, lesbians, homosexuals, and bisexuals, marched in downtown Lima.

The law provides all citizens with the right to a name, nationality, and legal recognition and guarantees other civil, political, economic, and social rights; however, more than one million citizens, including at least 312,000 women, lacked identity documents and could not fully exercise these rights. An estimated 15 percent of births were unregistered. Poor indigenous women and children in rural areas were disproportionately represented among those lacking identity documents. Undocumented citizens were marginalized socially and politically and faced barriers in accessing government services, including running for public office, or holding title to land.

Obtaining a National Identity Document requires a birth certificate, but many births in rural areas take place at home. In an effort to lower infant mortality rates, the health ministry fines women who do not give birth in clinics or hospitals, but poor women often cannot pay the fines and cannot register their children retroactively.

The NGO CARE continued working with local authorities in the Department of Huancavelica in a project designed to help the rural population obtain identity documents and to increase local participation in the political process. More than 1,500 persons received identity documents as a result of the program.

The ombudsman's office investigated complaints about the unlawful practice of charging fees to issue identity documents and facilitated refunds when such fees had been paid. The ombudsman's office also helped citizens obtain documents quickly.

## Section 6 Worker Rights

### a. The Right of Association

The law provides for the right of association. Regulations allow workers to form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers are not required to seek authorization prior to forming a trade union, and employers cannot prevent employment because of union membership. Judges, prosecutors, and members of the police and military are not permitted to form or join unions. More than 70 percent of the 13-million-member labor force worked in the economy's informal sector. Approximately 9 percent of the labor force was unionized.

Many businesses hired temporary or contract workers who were legally not permitted to participate in those firms' unions. Although the law forbids businesses from hiring temporary workers to perform core functions, employers circumvented these restrictions in a number of ways. Businesses in export processing zones (EPZs), for example, had more flexibility under the law in hiring temporary labor.

While the law establishes fundamental rights for domestic workers, the Ministry of Labor possessed limited ability to enforce these provisions.

### b. The Right to Organize and Bargain Collectively

The law recognizes the right of public and private sector workers to organize and bargain collectively but specifies that this right must be exercised in harmony with broader social objectives. A union must represent at least 20 workers to become an official collective bargaining agent. Union representatives have the right to participate in collective bargaining negotiations and establish negotiating timetables.

Although a conciliation and arbitration system exists, union officials complained that the high cost of arbitration makes it difficult to use. A 2006 presidential decree capped arbitrators' fees and prohibited employers from unilaterally changing previous collective bargaining agreements. This decree increased the speed of arbitration because the process does not include the judiciary, and the number of workers using arbitration increased.

The constitution provides the right to strike but aims to balance this right with broader economic objectives. Unions in essential public services, as determined by the government, must provide a sufficient number of workers during a strike to maintain operations. The law bans government unions in essential public services from striking. It also requires strikers to notify the Ministry of Labor before carrying out a job action. According to the labor ministry, one legal strike and 65 illegal strikes took place during the year. According to labor leaders, permission to strike was difficult to obtain, in part because the labor ministry feared harming the economy. The Ministry of Labor justified its decisions by citing unions' failure to fulfill the legal requirements necessary to strike.

On April 30, the National Federation of Mining, Metallurgy, and Steel Workers called a strike demanding that companies put contract workers on the payroll and that an 18-month salary limit for profit sharing be lifted. The strike ended May 4 after the union deemed the Ministry of Labor's response "satisfactory."

There are no recognized unions in the four EPZs. All labor in the EPZs was subcontracted, and no profit-sharing mechanisms existed.

### Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including labor by children; however, there were reports such practices occurred.

In May 2006 the ILO reported that nearly 30,000 persons were involved in forced labor, particularly in the logging industry located in the Amazon provinces; there were no reported changes in the situation during the year. The National Commission for the Fight against Forced Labor (including members from 13 ministries and organizations) was established to coordinate forced labor policies. The commission created the National Plan against Forced Labor, which was approved in May by Supreme Decree. The plan stipulates the qualification of the authorities, inspectors, police, and public prosecutors in detecting forced labor; it also identifies health and education services to the groups vulnerable to forced labor, specifically indigenous communities living near illegal logging zones.

### d. Prohibition of Child Labor and Minimum Age for Employment

Laws exist to protect children from exploitation in the workplace and prohibit forced or compulsory labor. The legal

minimum age for employment is 14; however, children between the ages of 12 and 14 may work in certain jobs for up to four hours per day, and adolescents between ages 15 to 17 may work up to six hours per day if they obtain special permission from the Ministry of Labor and certify that they are attending school. In practice child labor remained a serious problem, and the laws were violated routinely in the informal sector.

In certain sectors of the economy, higher minimum ages were in force: age 15 in industrial, commercial, or mining and age 16 in fishing. The law prohibits children from engaging in certain types of employment, such as working underground, lifting or carrying heavy weights, accepting responsibility for the safety of others, or working at night. The law prohibits work that jeopardizes the health of children and adolescents, puts their physical, mental, and emotional development at risk, or prevents regular attendance at school.

The Ministry of Labor's Office of Labor Protection for Minors (PMT) may issue permits authorizing persons under age 18 to work legally, and during the year granted 703 such permits, the majority of which went to children between ages 16 and 17. Parents must apply for the permits, and employers must have a permit on file to hire a child. The PMT conducted on-site inspections to ensure compliance with the legal codes.

The Committee for Prevention and Eradication of Child Labor estimated that 2.5 million children were working, most of whom were under age 14.

Forms of child labor varied. In rural areas, many children worked on small farms with their parents, in the artisanal and mining sectors, or as domestics. In urban areas, children often scavenged in municipal dumps or worked on the streets—selling candy, begging, or shining shoes. Children on the outskirts of Lima also worked in brick making, which the government labeled one of the worst forms of child labor. The government worked with the private sector to return hundreds of children working in brick making to schools in metropolitan Lima.

The companies that illegally employed more than 500 underage laborers as bricklayers in Huachipa were not sanctioned because they successfully argued that they had a contractual relationship only with the parents and could not control parents who put their children to work.

Narcotics traffickers and Shining Path terrorists continued to hold indigenous families captive in remote areas, using their labor—including child labor—to grow food crops and coca. In 2004 the National Commission for Development and Life Without Drugs estimated that 5,000 children were employed in the illegal narcotics industry, work that exposed them to a variety of toxic chemicals, with effects ranging from blisters and burns to permanent damage to the nervous system and even death.

NGOs and other observers maintained that the country suffered a serious problem with adolescent prostitution, although no reliable statistics existed.

The Ministry of Labor is responsible for enforcing child labor laws, and its inspectors may investigate reports of illegal child labor. Inspectors conducted routine visits without notice to areas where child labor problems were reported. Firms found violating labor laws were fined and had operations suspended.

Inspectors maintained contact with a wide variety of local NGOs, church officials, law enforcement officials, and school officials. There were 331 labor inspectors, with 247 working in Lima, whose inspections focused on the formal sector.

The Ombudsman for Children and Adolescents (DEMUNA) worked with the Ministry of Labor to document complaints regarding violations of child labor laws. There were more than 1,000 DEMUNA offices in communities throughout the country. DEMUNA also operated a decentralized child labor reporting and tracking system. MIMDES administered a program that sent specialized teachers to the streets to provide education and support to minors involved in begging and other kinds of work.

#### e. Acceptable Conditions of Work

The law states that workers should receive a just and sufficient wage determined by the government in consultation with labor and business representatives, as well as adequate protection against arbitrary dismissal. On October 1, the government increased the statutory monthly minimum wage by 10 percent to \$176 (550 soles). The wage did not provide a decent standard of living for many families. The government estimated the poverty line to be approximately \$65 (207 soles) a month per person, a figure that varied by region. A 2006 INEI survey placed the poverty line at \$86 (281 soles) a month per person in Lima, compared with \$50 (163 soles) for the rural regions in the Amazon jungle. The Ministry of Labor enforced the minimum wage only in the formal sector, which employed about 20 percent of the labor force, and many workers in the unregulated informal sector, most of whom were self-employed, received less. Employers frequently required long hours from domestics and paid wages as low as \$20 to \$30 (75 to 105 soles) per month.

The law provides for a 48-hour workweek and one day of rest and requires companies to pay overtime for more than eight

hours of work per day and additional compensation for work at night. Labor, business, and the government reported that the majority of companies in the formal sector complied with the law.

Occupational health and safety standards exist, and the government attempted to enforce them. Nevertheless, the government often lacked the resources, capacity, or authority to enforce compliance with labor laws. Labor sources claimed that many inspectors were forced to pay for transportation to sites and were often harassed or refused entry by businesses. Many fines went uncollected, in part because the Ministry of Labor lacked an efficient tracking system.

Labor inspectors made 29,449 visits to work sites and levied 2,467 fines for violations of labor laws, including child labor laws. With regard to health and safety violations, inspectors made approximately 2,505 visits and levied fines against 210 firms.

In cases of industrial accidents, an agreement between the employer and worker usually determined compensation. The worker did not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist for workers to remove themselves from potentially dangerous situations without jeopardizing employment.



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